

# Montana Teachers' Retirement System (TRS)



## Family Law Orders

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## History of Dividing TRS Benefits in Cases of Marital Dissolution

- QDROs don't apply
  - Unavailability of public pension benefits in cases of divorce
- Family Law Orders (FLOs) approved by Montana legislature in 1993
  - Initial law & problems created
  - 2007 amendments
  - 2009 amendments



## Types of Payments Made by TRS

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- Service Retirement benefits
- Disability Retirement benefits
- Survivor benefits
  - Refund of Member's Account; or
    - Monthly Benefits
  - Surviving minor child benefits
- Withdrawals



## Some Important Points Regarding Division of TRS Benefits

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- Defined Benefit Plan
- Determination of Benefits
  - Years of service pre & post dissolution
  - Average final compensation
- Actuarial Present Value
  - Less than 5 years of service (non-vested)
  - 5 or more years of service (vested)

## Benefits Owed to Participant

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### Amounts to be Paid to Alternate Payee

- A retired member's benefits are calculated and, in the simplest form, paid monthly for the life of the participant (normal form benefit).
- Any amount ordered to be paid to an alternate payee is deducted from the benefit owed to the TRS member, and then actuarially adjusted to fund a benefit payable for the life of the alternate payee.
  - Payment to an alternate payee cannot begin until all conditions for payment of benefits to the member are met
  - A lump-sum payment to the alternate payee cannot be ordered unless the participant elects to withdraw their account, in which case the payment to the alternate payee cannot exceed the participant's account balance

## Service Retirement- Regular & Early Retirement Benefits

- Regular Retirement - Available when member reaches age 60 with 5 years of service, or at any age with 25 years of service
- Early Retirement - reduced service retirement benefit
  - Available if member does not qualify for regular retirement but has 5 years of service and is at least 50 years of age
    - Retirement benefit is reduced for number of months the retirement date precedes the member reaching age 60 or completing 25 years of creditable service (See 19-20-802, MCA)



## TRS Benefit Options

- Normal Form Allowance
  - 1/60 of member's average final compensation X the total number of years of creditable service
- Optional Allowances
  - Option A – benefit paid to member for life, same benefit to single beneficiary for life
  - Option B – benefit paid to member for life, 1/2 benefit to single beneficiary for life
  - Option C – benefit paid to member for life, 2/3 benefit to single beneficiary for life
- Beneficiary designation is irrevocable except in very limited circumstances



## TRS Benefit Options - Cont'd

- Period Certain and Life
  - 10 year time period if member is 75 years of age or younger at time of retirement
  - 20 year time period if member is 65 years of age or younger at time of retirement
    - One or more beneficiaries, designation may be modified by member unless beneficiary is an alternate payee



## Disability Retirement Benefits

- Available if member becomes disabled while an active, contributing member of TRS
  - Disability benefit is equal to the greater of:
    - 1/4 of the member's average final compensation; or
    - The normal form benefit
  - Member may elect one of the optional allowances available



## Death/Survivor Benefits

- TRS member dies before retirement
  - Accumulated contributions plus interest paid to designated beneficiary(ies) or member's estate
  - If deceased member was vested, beneficiary may elect to receive a monthly retirement benefit
- TRS member dies after retirement and elected the "normal form" benefit option
  - Difference between accumulated contributions and total amount of benefits paid must be paid to designated beneficiary(ies) or member's estate



## Death/Survivor Benefits – Cont'd

- TRS member dies after retirement and elected one of the optional forms available (A, B, or C,) or a term certain
  - Designated beneficiary will continue to receive benefit in compliance with the terms of the option elected by the member.




## Withdrawal of TRS Account

- Available to vested or non-vested member who has terminated all reportable employment and has not begun receiving retirement benefits
  - Member may withdraw accumulated contributions in lieu of all other benefits
    - Accumulated contributions are only the member's contributions plus interest and do not include any contributions contributed by employers
  - Upon withdrawal, TRS has no further obligation to participant, alternate payee, or any beneficiary for benefits
- Withdrawal is not really a "benefit" – but a lump-sum refund of member contributions plus interest



## Surviving Minor Child and One-Time Death Benefit

- Surviving Minor Child
  - \$200 per month benefit to each minor child of a deceased, vested member until the child reaches age 18
- One-time Death Benefit
  - \$500 one-time payment to a designated beneficiary of a member who dies after retirement
- Neither of these benefit types is subject to distribution pursuant to a FLO – the benefits are always fully paid to the qualifying minor children and/or the designated beneficiary.



## FLO Statutes and Rules Applicable to TRS

- The following statute and rules are included in your handouts
  - Section 19-20-305, MCA
  - ARMs 2.44.522 and 2.44.523
- This presentation and the TRS FLO Guidelines are pertinent only to TRS and the above referenced statutes and administrative rules.



## Definitions

- **"Alternate payee"** means the former spouse of a participant who is entitled to an "actuarially equivalent amount" or a "fixed amount" of the participant's retirement benefits.
- **"Actuarially equivalent amount"** means the portion of the participant's benefit transferred to an alternate payee and actuarially adjusted to provide a benefit amount payable for the alternate payee's lifetime.



## Definitions – Cont'd

- **"Family law order"** means a certified copy of a judgment, decree, or order of a court of competent jurisdiction concerning spousal maintenance or marital property rights that includes a transfer of all or a portion of a participant's payment rights in a retirement system to an alternate payee in compliance with [19-20-305,MCA].
- **"Fixed amount"** means a designated specific dollar amount to be paid to the alternate payee over a specified period of time, or a specified monthly amount payable for the life of the participant, neither of which can be greater than the total monthly benefit payable to the participant.
- **"Participant"** means a member or retiree of the retirement system.






## Basic Formula for Dividing TRS Benefits

- The payment to the alternate payee is generally determined by the following formula:
  - Total years of service the benefit was earned during the marriage divided by the total years of creditable service multiplied by the “percentage share” of the member benefit owed to the alternate payee multiplied by the total amount of the member’s normal form benefit (or withdrawal)
  - Total years of service the benefit was earned during the marriage and the percentage share owed to the alternate payee are factors that must be set forth in the FLO; total years of creditable service will be determined by TRS at the time the TRS members applies for benefits




## How Can a FLO Direct Payment to an Alternate Payee?

- A FLO may require payment to an alternate payee in one of two forms
  - Actuarially equivalent amount (lifetime benefit); or
  - Fixed amount (limited to a dollar amount or period of time)



## Types of Payments to Alternate Payees Actuarially Equivalent Amount

- An actuarially equivalent amount is the monthly benefit amount payable to the alternate payee for their lifetime
  - not subject to termination based upon the death of the member
  - is the only way a benefit can be provided for the life of an alternate payee
  - may not be transferred in any way by the alternate payee – terminates upon the death of the alternate payee



## Types of Payments to Alternate Payees Fixed Amount

- A fixed amount is the monthly benefit or total amount payable to the alternate payee that is deducted from the member's monthly benefit for the determinable period of time
  - cannot exceed the monthly benefit amount payable to the member or benefit recipient under the benefit option elected by the participant
  - period of payment cannot exceed the lifetime of the member or a benefit recipient under an elected allowance
  - may not be transferred in any way by the alternate payee – terminates upon death of the alternate payee if not sooner

**Important Note:** It is imperative that TRS review a FLO that provides for a specific amount to be paid over a period of time to ensure the fixed amount can be paid if the retiree dies before the alternate payee is fully paid.



## Required Elements of a FLO

- Name, current address, SSN or Fed ID # and phone # for both participant and alternate payee
- If the TRS member is **not retired**, a specific description of the alternate payee's right to payments under each of the following circumstances
  - Service retirement of the participant
  - Disability retirement of the participant
  - Death of the participant prior to retirement (survivor benefits)
  - Withdrawal



## Required Elements of a FLO- Cont'd

- Provision stating that the FLO is subject to review and approval by TRS
- Effective date of the order
  - If received after the effective date of the order, the FLO will be effective the first day of the month following review and approval of the FLO by TRS (benefits will not be adjusted retroactively)



## Post-Retirement FLOs

- If the TRS member is receiving monthly benefits at the time the FLO is implemented, the following apply:
  - The benefit option and beneficiary designated at the time of retirement cannot be modified
  - If the alternate payee and the designated beneficiary are the same person:
    - Simply provide the formula or percentage amount to be used in dividing the benefit
    - Upon the death of the retiree or alternate payee, the option elected at retirement will be put into effect



## Post-Retirement FLOs - Cont'd

- If the alternate payee and the designated beneficiary are NOT the same person:
  - The FLO must provide the formula or percentage amount to be used in dividing the benefit
  - The FLO must identify if the alternate payee is to receive an actuarially equivalent amount or a fixed amount
  - Retiree's future benefits, but not the retirement option, will be adjusted to pay the required amount to the alternate payee



## Important Notes

- TRS is available and willing to review and advise regarding proposed FLOs in order to ensure TRS can give effect to the dictates of the court – Please submit a draft to TRS.
- TRS can only comply with effective FLOs that are timely submitted to TRS – FLOs should be submitted to TRS immediately upon issuance by the court
  - TRS will accept a FLO from either party or from the court
  - Failure to timely file a FLO with TRS could result in subsequent payments of benefits made by TRS in good faith that are not in keeping with the court's order
    - TRS cannot retroactively adjust benefits, but may adjust benefits going forward



## Important Notes – Cont'd

- A FLO cannot direct a TRS member to terminate, apply for benefits or elect a specific retirement option
- Payments to Alternate Payees May Be Subject to Termination or Modification
  - Any circumstance that results in termination or modification of retirement benefits to the participant may likewise result in termination or modification of payments to the alternate payee, including that the alternate payee may be required to refund erroneously paid benefits plus interest
- A FLO cannot require a participant to elect a specific benefit option (i.e., Option A, B, C, or Term Certain)

## Important Notes – Cont'd

- A FLO cannot prohibit a participant from withdrawing his/her accumulated contributions (but it can make withdrawal cost prohibitive)
- TRS reserves the right to communicate with both parties to an actual or proposed FLO to provide information requested regarding rights and benefits arising under the FLO and to ensure payments are made in conformity with the terms of the FLO

## QUESTIONS ?

